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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

BETTY YOUNG WISDOM,

Defendant and Appellant.

E049610

(Super.Ct.No. FBA900547)

OPINION

APPEAL from the Superior Court of San Bernardino County. Steven A. Mapes, Judge. Affirmed.

Jennifer L. Peabody, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, defendant and appellant Betty Young Wisdom pled nolo contendere to child abuse (Pen. Code, § 273a, subd. (a), count 1) and driving while having 0.08 percent or higher blood alcohol (Veh. Code, § 23152, subd. (b), count 4). In exchange, the court dismissed one count of child abuse (Pen. Code, § 273a, subd. (a),

count 2), one count of driving under the influence of alcohol (Veh. Code, § 23152, subd. (a), count 3), the allegation that she served one prior prison term (Pen. Code, § 667.5), and San Bernardino Superior Court case Nos. P128507, P128511, P111643, P117925, and P27218. The court sentenced defendant to the midterm of four years in state prison on count 1 and a concurrent six months on count 4. The court awarded her 32 days of custody credits, which consisted of 16 days of actual credits and 16 days of conduct/work credits.¹

Defendant filed a timely notice of appeal challenging the validity of the plea. She filed a request for certificate of probable cause, stating she was under the influence of medication at the time she entered her plea. She also attached a personal statement of the “factual basis” of the circumstances surrounding her offenses. The court granted the request for certificate of probable cause. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This appeal arises from a no contest plea. Defendant and the prosecutor stipulated that there was a factual basis for the plea, based on the police report and the court’s file. According to the police report, defendant was pulled over by a police officer following a report that she was driving erratically. The officer noted defendant was inebriated and that she had her two children, ages one and four, in the backseat of her car unrestrained. Defendant was tested and had a blood alcohol content of 0.28 percent.

¹ We note that the court initially granted defendant 16 actual days and 8 days of conduct/work credits. However, defendant subsequently filed a motion to correct her custody credits under the recently amended version of Penal Code section 4019. The court granted the motion and increased the conduct/work credits to 16.

Defendant initialed and signed a plea agreement, in which she pled no contest to child abuse (Pen. Code, § 273a, subd. (a)), and driving while having 0.08 percent or higher blood alcohol (Veh. Code, § 23152, subd. (b)). The trial court verified that the initials and signature on the plea agreement were hers. The court also asked defendant if anything was interfering with her ability to plead no contest, and defendant said no. The court asked her if she was pleading no contest of her own free will, and she said yes. The court then read the charges to her and asked if defendant was willing to give up her constitutional rights. She said yes, and her counsel joined in the waivers. Defendant pled no contest to the charges, and stipulated to the factual basis for the charges. The court found that her plea was knowing, free, voluntary, and intelligent, and made with the assistance of counsel in open court. The court then sentenced her according to the agreed-upon terms of the plea agreement.

ANALYSIS

Defendant appealed, and upon her request, this court appointed counsel to represent her. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case and the following potential arguable issues:

- 1) whether defendant's plea was made knowingly, voluntarily, and intelligently; and
- 2) whether there was a sufficient factual basis for the plea. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which she has not done.

We have now concluded our independent review of the record and found no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST

Acting P. J.

We concur:

RICHLI

J.

KING

J.